

III-20.01 General

Special Provisions are additions and revisions to the Standard and Supplemental Specifications covering special conditions on an individual project. Some common special provisions are summarized as follows.

- ACOE Section 404 Permit
- Tribal Employment Rights Ordinance (TERO) Requirements
- Contractor Furnished Scale, Scale Person, and Dump Person
- 408 Hot Bituminous Pavement - Special
- 409 Hot Bituminous Pavement - Quality Control/Quality Assurance
- 409 Hot Bituminous Pavement - Quality Control/Quality Assurance Contractor Mix Design
- Superpave Volumetric Mix Design
- Joint Sealing and Sawing - Hot Bituminous Pavement Grinding
- Dowel Bar Retrofit
- Tolerance in Surface and Ride Quality for Interstates
- Concrete Pavement Surface Texture
- Pumping Equipment
- Portable Changeable Message Sign
- Critical Path Method
- Partnering

III-20.02 Usage In Project Plan Sheets

As noted, special provisions would include work items that are either not in, or are work items that require major revision from what is provided in, the Standard or Supplemental Specifications. These work items could be addressed by either a plan note or a special provision. As a rule of thumb, a plan note should be used if the work item can be described in a short concise manner. A special provision should be used if the description of the work item is lengthy, complex, or requires research and approval from other divisions, districts, and/or agencies.

The designer should determine which special provisions are applicable and necessary for the project. A "List of Special Provision" identifying the provision numbers and descriptions should be placed on the Basis of Estimate Sheets.

The special provisions are not placed in the plans, rather they are inserted into the Bidders Proposal by the Planning and Programming Division.

III-20.03 Procedures for Special Provisions

The designer will request the special provision, in writing, from the Maintenance & Engineering Services Division (MESD) and address any conditions required in the provision to complete the project as designed.

If the special provision is new, a rough draft of the contract requirements will be prepared by the designer and submitted to MESD along with the request for a special provision. The designer may request help in researching special provision requirements. MESD will work with the designer to obtain the necessary information.

MESD will prepare the final draft of the special provision, coordinate FHWA approval and assign a special provision number. Each time a special provision is used a new number must be assigned.

If the special provision is controversial, MESD will work with FHWA, AGC Specifications Committee, designer and other appropriate divisions and districts to resolve any differences.

MESD will make distribution of the special provision to AGC, FHWA, Districts, and Divisions.

Special Provisions must be completed by MESD and submitted to the Planning and Programming Division by the plans completion date. All requests for special provisions should be submitted to MESD no later than six (6) weeks prior to the plan completion date. When special provisions are new or controversial, requests should be submitted early enough to allow time for research, resolution and approval by FHWA.

III-20.04 Tribal Employment Rights Ordinance (TERO)

If the project is on an Indian Reservation the designer should request a TERO Special Provision. On all North Dakota highway projects, including federal aid, state aid, and maintenance contracts, a Tribal Employment Rights Tax will be applied to the portions of the highway projects that are within the boundaries of the Indian Reservation. Additionally, hiring preference requirements apply to the entire project and all tied projects.

1. The designer should review the project limits to determine if the project is on, or partially on an Indian Reservation.
2. If TERO provisions apply, the designer should request, in writing, a Special Provision from MESD a minimum of twelve (12) weeks prior to the plan completion date. To provide sufficient lead time, the request should be coordinated from the time of project identification and concept report, including projects with potential ties.
3. If TERO provisions apply, the designer should request, in writing, approval from the Office of Infrastructure Support or District Engineer prior to tying the project to other

local projects.

The Indian Reservations and the ties to Districts, Counties, and Highways are summarized as follows:

INDIAN RESERVATION KEYS

Districts, Counties, & Highways

Spirit Lake Nation:

Districts: Devils Lake (3)

Counties: Benson, Eddy, Nelson

Highways: US 281, ND 15, ND 20, ND 57

Fort Berthold:

Districts: Minot (4), Dickinson (5), Williston (7)

Counties: Dunn, McKenzie, McLean, Mercer, Mountrail, Ward

Highways: ND 8, ND 22, ND 23, ND 37, ND 73, ND 1804

Standing Rock:

Districts: Bismarck (1)

Counties: Sioux

Highways: ND 6, ND 24, ND 31, ND 49, ND 1806

Turtle Mountain:

Districts: Devils Lake (3)

Counties: Rolette

Highways: US 281 & ND 5, ND 30